

Donald Arney, Owner/Broker
Las Olas Mortgage Center, Inc. Dissolved 9/14/2007
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UNITED STATES BANKRUPTCY COURT : Chapter 11
SOUTHERN DISTRICT OF NEW YORK : Case No 98-13555(SCC)

Is re:
LEHMAN BROTHERS HOLDINGS, INC. et al...

Debtors

ALTERNATIVE DISPUTE RESOLUTION PROCEDURES ORDER
FOR INDEMIFICATION CLAIMS OF THE
DEBTORS AGAINST MORTGAGE LOAN SELLERS.

MOTION FOR DISMISSAL STATUTE OF LIMITATIONS

To Wit.

Statute of Limitations State of Florida with attendant citings.

The Statute of Limitations for a Florida Corporation are as follows.

Statutes of Limitation in Florida Statute number noted.

Injury to Person	4 yrs. §95.11(3)(o)
Libel/Slander	2 yrs. §95.11(4)(g)
Fraud	4 yrs. §95.11(3)(j)
Injury to Personal Property	4 yrs. §95.11(3)(h)
Professional Malpractice	2 yrs.; Medical: 2-4 yrs. §95.11(4)(a) and (b)
Trespass	4 yrs. §95.11(3)(g)
Collection of Rents	-
Contracts	Written: 5 yrs. §95.11(2)(b), 1 yr. specific performance §95.11(5)(a) Oral: 4 yrs. §95.11(3)(k)
Collection of Debt on Account	-
Judgments	20 yrs. domestic §95.11(1); 5 yrs. foreign judgment §95.11(2)(a)

This claim clearly falls into a contract dispute and therefore has a limitation of 5 years to file claim. LBHI failed to file action within proper time limits. Their filing was 10 years and 3 months after it was discoverable by them on June 8 & 9, 2006

The maximum time limit in filing a claim against a dissolved Florida Corporation is at the maximum five years. (95.11) Or an active corporation following ability to discover error which in this case as June 8 & 9, 2006. This claim became discoverable on June 8 or 9, 2006. It is now October 1, 2016 which is a period of 10 years and three months. The Statute of Limitations has long since run; therefore LOMCI is requesting the case be Dismissed with prejudice because the Statute of Limitations in the State of Florida have long since expired. (10 years and 3 months).

LBHI has had this mortgage and all of its documents in their possession since June 8 & 9 2006.

I Donald Preston Arney Request Judge Shelley Chapman to rule without a hearing, based on the presented facts. This is a statutory filing and is therefore quite clear as a rule of law. LOMCI requests Summary Judgment of Dismissal with prejudice.

Date: October 3, 2016

Donald Preston Arney

I certify that on September 3, 2016 a copy of this Motion and all supporting documents that are attached as indicated above were mailed to

John Baker
Lehman Brothers Holdings, Inc. U.S. Postal Service RRR
7807 E. Peakview Avenue
Suite 410
Centennial, Co. 80111

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JUDGES RULING STATUTE OF LIMITATIONS

Key Law Involved:

Florida State Statutes 95: Statute of Limitations. Specifically 95.11.

Summary:

1. The defendant Las Olas Mortgage Center, Inc. (LOMCI) claimed that under Florida Law Chapter 95 cited above Lehman Brothers Holdings, Inc. has forever lost their right to pursue legal action against LOMCI due to failure to meet the Statute of Limitations to wit: Contracts: which allows a 5 year window to file such action from time of ability to discover.
2. On June 8 & 9 the mentioned mortgages were completed and closed. All documents pertaining to the closing were then maintained by Aurora Bank or Lehman Brothers Holdings, Inc.
3. During a period of 10 years and 3 months LBHI had access to the mortgages and all documents concerning the mentioned mortgages. The mortgages were either foreclosed on or sold by short sale. At any time during this 10 year 3 month period LBHI had the availability of examination of documents in their possession.
4. LBHI failed to review and inspect these records, even though they were in LBHI's possession from June 2006 to present, in the specified times frame as set forth in Florida State Statutes, Chapter 95 Statute of Limitations.

The court issues a Summary judgment, with prejudice, in this case. LBHI did not fulfill their legal obligation in filing this case within the time frames specified by Florida State Statutes.

So ruled:

Date _____

Honorable Shelly C. Chapman
United States Bankruptcy Judge

Copy to:
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